

**BY-LAWS**  
**of**  
**THE TOWN OF NORTH HEMPSTEAD**  
**BUSINESS AND TOURISM DEVELOPMENT CORPORATION**

**INDEX**

ARTICLE I	Title, Purpose and Object
ARTICLE II	Members and Membership
ARTICLE III	Affiliated Organizations
ARTICLE IV	Meetings
ARTICLE V	Board of Directors
ARTICLE VI	Officers
ARTICLE VII	Finances
ARTICLE VIII	Dissolution
ARTICLE IX	Miscellaneous
ARTICLE X	Amendment of By-Laws

Adopted April 12, 2005

Amended December 8, 2009

## ARTICLE I

### TITLE, PURPOSE AND OBJECT

Section 1 – Title and Purpose. This corporation shall be known as the “**The Town of North Hempstead Business and Tourism Development Corporation**”. Its objectives and purposes shall be as set forth in its Certificate of Incorporation, that is the exclusively charitable or public purposes of: (i) relieving and reducing unemployment; (ii) promoting, facilitating and providing for additional and maximum employment for individuals; (iii) expanding, bettering and maintaining job opportunities for individuals; (iv) instructing or training individuals to improve or develop their capabilities for such jobs; (v) carrying on scientific research for the purpose of aiding the Town of North Hempstead by attracting new industry to the Town of North Hempstead or by encouraging the development, or retention, of industry in the Town of North Hempstead; (vi) lessening the burdens of government and acting in the public interest, thus performing an essential governmental function; and (vii) enhancing business development and economic opportunities, by engaging in the following activities:

- (a) to engage in workforce and entrepreneurial training, and development;
- (b) to build and enrich the community through the support, offer and provision of artistic, charitable, cultural and recreational events and facilities;
- (c) to construct, acquire, rehabilitate, improve, develop, operate and maintain not-for-profit, commercial and recreational facilities;
- (d) to construct, acquire, rehabilitate and improve, for use by others, not-for-profit, industrial and/or manufacturing plants;
- (e) to assist financially in such construction, acquisition, rehabilitation and improvement, and maintain such not-for-profit, industrial and/or manufacturing plants for others;
- (f) to obtain and provide municipal improvements and improved transportation services;
- (g) to provide managerial, technical, and administrative advice, counseling and/or training, and provide, furnish and/or procure financial aid and support to assist

residents to develop necessary business and living skills, and assist in the development of business enterprises;

(h) to disseminate information and furnish advice, technical assistance, and liaison with federal, state, and local authorities with respect thereto;

(i) to acquire by purchase, lease, gift, bequest, devise, or otherwise real or personal property or interests therein;

(j) to borrow money and to issue negotiable bonds, debentures, notes, and obligations therefor (secured, unsecured, taxable and tax exempt) (collectively, the "Obligations");

(k) to otherwise carry out its corporate purposes, and to foster and encourage the location or expansion of not-for-profit, industrial and/or manufacturing plants; and

(l) to exercise any and all other powers conferred by paragraph (c) of Section 1411 of the New York Not-for-Profit Corporation Law.

In furtherance of the aforesaid purposes, the Corporation shall have all the powers conferred by Paragraph (c) of Section 1411 of the New York Not-For-Profit Corporation Law.

The Corporation may do any other act or thing incidental to or connected with the foregoing purposes or in advancement thereof, but not for the pecuniary profit or financial gain of its members, Directors or officers, except as permitted under Article 5 and 14 of the New York Not-For-Profit Corporation Law and Article 8 of the New York Public Authorities Law.

Nothing herein contained shall authorize the Corporation, directly or indirectly, to engage in or include among its purposes any of the activities mentioned in Section 404 of the New York Not-For-Profit Corporation Law or Section 460-a of the New York Social Services Law.

The Corporation will not engage in any activities not permitted to be carried on by an organization exempt from federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), and the regulations promulgated thereunder.

Nothing herein contained shall authorize or empower the Corporation, directly or indirectly, to engage in or include among its purposes any activity prohibited by Section 340 of the New York General Business Law or any other New York anti-monopoly law, and the Corporation is not authorized so to engage.

Anything stated to the contrary herein, nothing herein shall authorize the Corporation to operate or maintain a nursery school, elementary school, secondary school, or an institution of higher learning, or to grant degrees.

The lawful public or quasi-public objectives which each business purpose will achieve are the following: the training of community residents in the development of their business and living skills; the promotion of maximum adult employment by bettering, facilitating and maintaining adult job opportunities; and the stimulation of the economic growth of the community.

The Corporation will not accept a mortgage loan or loans from the New York Job Development Authority.

The Corporation's name shall be reserved for its exclusive use. The Effective Date of these By-Laws shall be the date of the 2005 Annual Meeting of the Board of Directors.

Section 2 – Issuance of Obligations. In issuing the Obligations as set forth in Section 1 of Article I of these By-Laws, the Corporation: (i) may issue and sell one or more series or classes of Obligations through public sale, private placement, or negotiated underwriting to finance activities referred to in Section 1 of Article I of these By-Laws, on a secured or unsecured basis; (ii) engage the services of one or more underwriters, placement agents, consultants, attorneys, financial advisors and other persons whose services may be appropriate or desirable in connection with the financing referred to above; and (iii) undertaking

projects and activities within the Town of North Hempstead for the purposes set forth in Section 1 of Article I of these By-Laws and enter into contracts with any other economic development organizations sponsored by the Town of North Hempstead to help achieve such purposes.

The Obligations of the Corporation will not be a debt of the State of New York or the Town of North Hempstead, and neither the State of New York nor the Town of North Hempstead will be liable thereon, nor will they be payable out of any funds other than those of the Corporation derived from or in respect of the project being financed.

The Corporation will hold a public hearing on any issuance of Obligations in excess of \$100,000 proposed to be provided by the Corporation to a project at which interested parties will be provided with reasonable opportunity, both orally and in writing, to present their views with respect to the project. The Corporation will give the same notice of such hearing as the Town of North Hempstead Industrial Development Agency would be required to give pursuant to the provisions of Section 859-a and b of the General Municipal Law of the State of New York as if such hearing was a public hearing of the Town of North Hempstead Industrial Development Agency with respect to a project.

The activities referred to in Sections 1 and 2 of Article I of these By-Laws will achieve the lawful public purposes of lessening the burdens of government, the carrying out of such purposes and the exercise of the powers conferred on the Corporation being the performance of an essential governmental function, it being understood that the performance of such activities will assist the Town of North Hempstead in reducing unemployment and promoting additional job growth and economic development.

Section 3 – PAAA. The Corporation will be subject to the New York Public Authorities Accountability Act of 2005, as amended from time to time (the “PAAA”). As such, the Corporation will be required to, among other things: (1) undergo annual independent audits and submit the results of such audits to the Town Board of the Town of North Hempstead and the New York State Authority Budget Office, (2) prepare and submit its annual budget to the Town Board of the Town of North Hempstead and the New York State Authority Budget Office, (3) adopt the various ethical, reporting, property disposition and disclosure policies required by the PAAA, (4) form governance and audit committees to ensure the Corporation is in compliance with the PAAA and any other applicable laws, and (5) otherwise comply with the requirements of the PAAA.

## ARTICLE II

### MEMBERS AND MEMBERSHIP

Section 1 – Members. The Corporation shall have two (2) classes of Members, as follows:

(a) Administrative Members. Administrative Members shall consist of the members in good standing of the Board of Directors and shall be voting Members.

(b) Other Categories of Members. The Board of Directors may also provide, from time-to-time, for other categories of Members, such as Auxiliary or Annual Members, upon such terms and with such rights and privileges as the Board of Directors may, from time-to-time, determine, none of whom shall be voting Members.

Section 2 – Expulsion of an Administrative Member. Anything in these By-Laws to the contrary notwithstanding, any Administrative Member may be expelled, , at any time by the Town Board of the Town of North Hempstead. The right to vote and all other rights of membership, if any, of such Member shall immediately cease upon termination of membership.

Section 3 – Expulsion of Other Categories of Members. Anything in these By-Laws to the contrary notwithstanding, any non-voting Member may be expelled, with or without cause, at any time by the Administrative Members at a duly noticed and called meeting of the Administrative Members at which a quorum is present, upon the affirmative vote of two-thirds of the Administrative Members present (but, by not less than a majority of all Administrative Members of the Corporation). The right to vote and all other rights of membership, if any, of such Member shall immediately cease upon termination of membership.

Section 4 – Conditions of Membership. By accepting membership, each Member thereby agrees with the other Members and with the Corporation that the Corporation shall be a not-for-profit organization, and that it is intended that the Corporation achieve and maintain status as an entity pursuant to Section 501(c)(3) of the Code. All income and earnings of the Corporation shall be used exclusively for its corporate purposes, or accrue and be paid to the New York Job Development Authority. No part of the income and/or earnings of the Corporation shall inure to the benefit or profit of, nor shall any distributions of its property or assets be made to, any Member or private person, corporation or individual, or any other private interest.

Section 5 – Voting. Each Administrative Member shall be entitled to one (1) vote.

Section 6 – Resignation of Membership. Any Member may at any time resign from the Corporation upon notice in writing or electronically to that effect addressed to the Secretary. If notice is given electronically, the transmission thereof must either set forth or be submitted with information from which it can reasonably be determined that the transmission was authorized by the Member.

### **ARTICLE III**

#### **AFFILIATED ORGANIZATIONS**

The Board of Directors may, from time-to-time, establish such auxiliary boards composed of Members or persons who are not Members as it shall determine, and authorize such organizations to perform such functions in furtherance of the Corporation's purposes as do not contravene the provisions of these By-Laws.

### **ARTICLE IV**

#### **MEETINGS**

Section 1 – Annual Meetings. The Annual Meeting of the Members of the Corporation shall be held in January each year, on such day, at such hour and place, within the County of Nassau, Town of North Hempstead, State of New York, as the Board of Directors shall determine. At such a meeting, the report of the Board of Directors shall be received, and such other business shall be transacted as shall properly come before the meeting. Should the date designated for the Annual Meeting of Members fall on a legal holiday, then the meeting shall be held on the next business day immediately following.

Section 2 – Special Meetings. A special meeting of Members entitled to vote may be called at any time by the Chair of the Board or a majority of the Board of Directors. No business shall be transacted at any such meeting unless the general nature thereof shall have been specified in the notice of such meeting.

Section 3 – Notice of Meetings and Waiver of Notice. Notices of each Annual Meeting and of any special meeting of Members shall (i) be sent by personal delivery, mail, telecopier or electronically to each Member entitled to vote at such meeting at his/her last known address, telecopier number or electronic mail address, as the case may be, as supplied by the Member to the Secretary, not less than ten (10) days nor more than forty (40) days prior to the



date of the meeting; or (ii) be given in such other manner as may be permitted by law. Whereas notices of the Annual Meeting need not set forth an agenda, notices of special meetings shall state the purpose or purposes of the meeting and at whose direction it is being called.

Notice of a meeting need not be given to any Member who submits a signed waiver of notice, electronically or by proxy, whether before or after the meeting. Waiver of notice may be written or electronic. If electronic, however, the transmission of the waiver must either set forth or be submitted with information from which it can reasonably be determined that the transmission was authorized by the Member. The attendance of any such Member at a meeting, in person or by proxy, without protesting prior to the conclusion of the meeting the lack of notice of such meeting, shall constitute a waiver of notice by him/her.

Section 4 – Quorum. At all meetings of Members, two-thirds ( $\frac{2}{3}$ ) of all Members entitled to vote shall constitute a quorum. However, any one or more Members may participate in a meeting of Members by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting for the satisfaction of quorum requirements.

In the absence of a quorum, a majority of the Members so present or represented may adjourn the meeting from time-to-time until a quorum is obtained. At such adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted at the meeting as originally called.

Section 5 – Action By Members Without A Meeting. (a) Whenever, under these By-Laws, Members are required to take any action by vote, such action may be taken without a meeting of Members on written consent, setting forth the action to be so taken, signed by all of

the Members entitled to vote thereon. This Section 5(a) shall not be construed to alter or modify any provision in the Corporation's Certificate of Incorporation not inconsistent with this Section 5(a) under which the written consent of less than all of the Members is sufficient for action by the Corporation.

(b) Written consent thus given by all Members entitled to vote shall have the same effect as a unanimous vote of Members, and any certificate with respect to the authorization or taking of any such action which is delivered to the Department of State shall recite that the authorization was by written unanimous consent.

Section 6 – Voting. At every meeting of Members, each Member entitled to vote shall be entitled to one (1) vote. Any such Member may designate a proxy, attorney-in-fact or surrogate to vote for him/her at any meeting of the Members of the Corporation, in accordance with a format promulgated by the Board of Directors. No such Member shall sell his/her vote or issue a proxy to vote in consideration for money or anything of value.

Except as otherwise provided herein or where indicated by law, all action taken at any meeting of Members at which a quorum is present may be taken by the affirmative vote of a majority of the votes cast with respect to said action, with blank votes or abstentions not to be counted in the number of votes cast.

Where a specific vote of a majority or of two-thirds is required by statute (New York or federal) with respect to any corporate action, said action shall be taken by such proportion of the votes cast at the meeting, provided that the affirmative votes cast in favor of any such action shall be at least equal to the quorum.

Section 7 – Inspectors of Election. At the Annual Meeting of the Members, there shall be chosen by the presiding Officer an Inspector of Election, whose duty it shall be to

conduct the election of non-Administrative Members, examine and certify the results thereof, and give his/her certificate for the same. The Inspector, before entering upon the discharge of his/her duties, shall take and sign an oath faithfully to execute the duties of Inspector at such meeting with strict impartiality and according to the best of his/her ability.

Section 8 – Organization. The Chair of the Board of the Corporation, and, in his/her absence, the Vice-Chair shall preside at all meetings of the Members. In the absence of the Chair of the Board, or the Vice-Chair, a presiding Officer shall be chosen by the Members present. The Secretary of the Corporation shall act as Secretary at all meetings of the Members. In the absence of the Secretary, the presiding Officer may appoint any person to act as Secretary at the meeting.

Section 9 – Procedure. The order of business and all other matters of procedure at every meeting of the Members shall be determined by the presiding Officer.

Section 10 – Vote Required. All questions, except those questions to be decided in a manner specifically prescribed by law or these By-Laws, shall be determined by a majority vote of Members present at a meeting of Members at which a quorum is present.

## ARTICLE V

### BOARD OF DIRECTORS

Section 1 – Management. The entire direction and management of the affairs of the Corporation shall be vested in its Board of Directors, who shall pursue such policies and principles as shall be in accordance with the Certificate of Incorporation of the Corporation (as from time-to-time amended), these By-Laws, and the laws of the State of New York and of the Federal Government.

Section 2 – Number of Directors. The Board of Directors shall consist of not less than seven (7) Administrative Members, nor more than fifteen (15) Administrative Members, of the Corporation.

Section 3 - Qualification of Directors. Each Director shall be at least twenty-one (21) years of age and shall meet the requirements of the PAAA and other applicable law.

Section 4 - Appointment. (a) Directors shall be appointed by, and serve at the pleasure of, the Town Board of the Town of North Hempstead and will also serve as members of the Corporation. Directors are not subject to term limits and shall serve without compensation.

(b) The majority of the Directors will be “Independent Directors.”

(c) For purposes of these By-Laws, the term “Independent Director” means a Director who: (1) is not, and in the past two years has not been, employed by the Corporation (or an “Affiliate” of the Corporation) in an executive capacity; (2) is not, and in the past two years has not been, employed by an entity that received remuneration valued at more than \$15,000 for goods and services provided to the Corporation or received any other form of financial assistance valued at more than \$15,000 from the Corporation; (3) is not a relative of an executive officer or employee in an executive position of the Corporation (or an “Affiliate” of the Corporation); and (4) is not, and in the past two years has not been, a lobbyist registered under a state or local law and paid by a client to influence the management decisions, contract awards, rate determinations or any other similar actions of the Corporation (or an “Affiliate” of the Corporation).

(d) For purposes of the By-Laws, the term “Affiliate” means a corporate body having substantially the same ownership or control as the Corporation.

(e) For purposes of these By-Laws, the term "Relative" means an individual's spouse, child, stepchild, stepparent, or any person who is a direct descendant of the grandparents of the individual or of the individual's spouse.

Section 5 – Vacancies. Should any Director position become vacant, the Corporation will take steps to recommend to the Town Board of the Town of North Hempstead one or more nominees to fill the vacancy. The decision to appoint a particular individual as a Director rests solely with the Town Board of the Town of North Hempstead.

Section 6 – Meeting Place. No fewer than four (4) times per year, including the Annual Meeting, the Board of Directors shall meet at such time and place within the Town of North Hempstead, County of Nassau, State of New York, or at such other place within or without the State of New York, as the Board of Directors shall from time-to-time order or direct. Meetings of the Board of Directors shall be held on notice; except, however, in the absence of any direction prior to the holding of any meeting, such meeting shall be held at the principal office of the Corporation.

The Corporation is deemed to be a public body (as such term is defined in the Open Meetings Law) and, as such, each meeting of the Board of Directors of the Corporation will be conducted in the manner prescribed by the New York Open Meetings Law.

Section 7 – Quorum. At all meetings, a quorum shall consist of two-thirds (2/3) of the Directors. Except as otherwise expressly provided in these By-Laws, all action taken by the Board of Directors shall require a majority vote by the Directors in attendance at any meeting at which a quorum is present. However, any one or more Directors may participate in a meeting of the Board by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such

means shall constitute presence in person at a meeting for the satisfaction of quorum requirements. In the absence of a quorum, a majority of the Directors so present may adjourn the meeting from time-to-time until a quorum is obtained. At such adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted at the meeting as originally called.

Section 8 -- Annual Meeting. An Annual Meeting of the Board of Directors shall be held immediately following the Annual Meeting of the Members of the Corporation in each year, or on such other date and time as shall be fixed by resolution of the Board of Directors prior to the Annual Meeting of the Members of the Corporation each year.

Section 9 -- Notice of Meeting of the Board of Directors. Notices of each Annual Meeting and of any special meeting of Directors shall (1) be sent by personal delivery, mail, telecopier or electronically to each Director at his/her last known address, telecopier number or electronic mail address, as the case may be, as supplied by the Director to the Secretary, not less than ten (10) days nor more than forty (40) days prior to the date of the meeting; or (2) be given in such other manner as may be permitted by law. Whereas notices of the Annual Meeting need not set forth an agenda, notices of special meetings shall state the purpose or purposes of the meeting and at whose direction it is being called.

Section 10 -- Special Meetings. Special meetings of the Board of Directors shall be held at any time or place upon the call of the Chair of the Board, the Vice Chair, or any three (3) members of the Board of Directors. Notice of the time and place of such meeting shall be served personally upon, mailed to (by United States Postal Service or overnight courier, i.e., Federal Express), sent electronically, or by telecopier to each of the Directors at the address or telecopier number, as the case may be, of such Director appearing in the records of the

Corporation, at least 24 hours prior to the meeting. Such Notice may be waived by written or electronic waiver signed by all the members of the Board of Directors or by such Directors as shall have failed to receive notice thereof. Notices of special meetings shall state, insofar as possible, the purpose or purposes for which any special meeting has been called, but, notwithstanding the foregoing, any additional business may be transacted at such meeting which may properly come before the meeting.

Section 11 – Action By The Board Without A Meeting. (a) Except as otherwise provided in this Section 11, any reference in this Section 11 to corporate action to be taken by the Board shall mean such action at a meeting of the Board of Directors.

(b) Unless otherwise restricted by the Corporation's Certificate of Incorporation or these By-Laws, any action required or permitted to be taken by the Board or any committee thereof may be taken without a meeting if all Board Directors or committee members, as the case may be, consent in writing to the adoption of a resolution authorizing said action. The resolution and the written consent thereto by the Board Directors or committee members shall be filed with the minutes of the proceedings of the Board or committee.

(c) When authorized by the Certificate of Incorporation or these By-Laws, any one or more members of the Board of Directors or committee thereof may participate in a meeting of the Board of Directors or committee by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting for the satisfaction of quorum requirements.

Section 12 – Annual Report. The Chair of the Board shall preside at the Annual Meeting and present a report on the state of the Corporation, and a financial report prepared by

an independent public accountant or firm selected by the Board, showing in appropriate detail the following:

(a) The assets and liabilities of the Corporation as of the end of a twelve-month fiscal period terminating not more than six (6) months prior to said meeting.

(b) The principal changes in assets and liabilities during the year immediately preceding the date of the report.

(c) The revenue or receipts of the Corporation, both unrestricted and restricted to particular purposes, for the year immediately preceding the date of the report.

(d) The expenses or disbursements of the Corporation, for both general and restricted purposes, during the year immediately preceding the date of the report.

(e) The number of Members of the Corporation as of the date of the report, together with a statement of increase or decrease in such number during the year immediately preceding the date of the report, and a statement of the place where the names and places of residence of the current Members may be found.

The annual report of the Directors shall be filed with the records of the Corporation, and either a copy or an abstract thereof entered in the minutes of the proceeding of the Annual Meeting of Members.

Section 13 – Duties of Directors and Training Requirement. (a) The Board of Directors of the Corporation constitute the governing body of the Corporation and will have and will responsibly exercise all of the powers prescribed by Section 1411 of the New York State Not-for-Profit Corporation Law and other applicable law, including but not limited to Chapter 766 of the PAAA, including the election of all Officers.



(b) The Board will appoint a Chief Executive Officer and a Chief Financial Officer of the Corporation, neither of whom will be a Director of the Corporation.

(c) Every annual financial report of the Corporation must be approved by the Board and provided to the Town Board of the Town of North Hempstead.

(d) The Directors of the Corporation will: (1) execute direct oversight of the Chief Executive Officer of the Corporation and other senior management of the Corporation in the effective and ethical management of the Corporation; and (2) understand, review and monitor the implementation of fundamental financial and management controls and operational decisions of the Corporation.

(e) The Board will not, directly or indirectly, including through a subsidiary, extend or maintain credit or arrange for the extension of credit, or renew an extension of credit, in the form of a personal loan to or for any officer, Director or employee (or equivalent thereof) of the Corporation.

(f) Directors of the Corporation will file annual financial disclosure statements with the Board of Ethics of the Town of North Hempstead.

(g) Individuals newly appointed to the Board of the Corporation must participate in state approved training regarding their legal, fiduciary, financial and ethical responsibilities within one year of appointment to such Board. Directors who have already completed state approved training will participate in such continuing training as may be required to remain informed of best practices, regulatory and statutory changes relating to the effective oversight of the management and financial activities of public authorities and to adhere to the highest standards of responsible governance.

Section 14 – Interested Directors and Officers. No contract or other transaction between the Corporation and one or more of its Directors or Officers, or between the Corporation and any other corporation, firm, association or other entity in which one or more of its Directors or Officers are Directors/directors or officers, or have a substantial financial interest, shall be either void or voidable for this reason alone or by reason alone that such Director or Directors or Officer or Officers are present at the meeting of the Board of Directors, or of a committee thereof, which authorizes such contract or transaction, or that his/her or their votes are counted for such purpose:

(a) If the material facts as to such Director's or Officer's interest in such contract or transaction and as to any such common Directorship, officership or financial interest are disclosed in good faith or known to the Board of Directors or a committee thereof, and the Board of Directors or committee authorizes such contract or transaction by a vote sufficient for such purpose without counting the vote or votes of such interested Director or Officer; or

(b) If the material facts as to such Director's or Officer's interest in such contract or transaction and as to any such common Directorship, officership or financial interest are disclosed in good faith or known to the Members entitled to vote thereon, if any, and such contract or transaction is authorized by a vote of such Members.

Common or interested Directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or a committee thereof which authorizes such contract or transaction.

Section 15 – Agents and Employees. The Board of Directors may employ such agents and employees as it may from time-to-time deem necessary for the performance of the functions of the Corporation.

Section 16 – Compensation of Directors. No Director or Officer of the Corporation shall receive, directly or indirectly, any salary, compensation or emolument from the Corporation, either as an Officer or Director or in any other capacity, except reasonable compensation for services actually rendered in effecting one or more of its corporate purposes.

Section 17 – Voting. Each Director shall be entitled to cast one (1) vote in person or by written proxy. In no event, however, shall a proxy, attorney-in-fact or surrogate be counted toward a quorum of the Board.

Section 18 – Removal of Directors. Anything in these By-Laws to the contrary notwithstanding, any Director may be removed, at any time, by the Town Board of the Town of North Hempstead. The termination of a Director shall also terminate his/her office as Officer, if any.

Section 19 – Resignation. Any Director may at any time resign as a Director of the Corporation by delivering a written resignation to the Corporation and to the Town Board of the Town of North Hempstead. It is not necessary for the resignation to be accepted for it to become effective, unless otherwise required.

Section 20 – Committees. The Board of Directors, upon the recommendation of the Chair, may provide for such other committees, or other bodies of individuals, as it shall deem wise, such as a long-range planning committee and a finance committee. Furthermore, the Board of Directors may, from time-to-time, delegate to such committees or other bodies such duties and powers not inconsistent with these By-Laws as it shall deem necessary or wise. Except as otherwise provided for herein, the Chair, with the consent of the majority of the Officers, shall appoint all committee chairs.

## ARTICLE VI

### OFFICERS

Section 1 — General Officers. The Officers of the Corporation shall consist of a Chair of the Board, a Vice-Chair of the Board, a Secretary and a Treasurer. All such Officers shall be elected by a majority of the Board of Directors at the Annual Meeting. Officers shall serve without compensation. The Chair of the Board, the Vice-Chair of the Board, the Secretary and the Treasurer shall be Members of the Corporation, and any Member can serve in one or more offices.

The Board of Directors may also appoint such other Officers and assistants, with such titles as it may deem expedient. There shall be no requirement that additional Officers and assistants be Members of the Corporation.

Section 2 — Term of Office. Each of the Officers and committee chairs of the Corporation who are elected or appointed as of the Effective Date shall initially hold office until the first meeting of the Board of Directors following the next Annual Meeting of Members, and until appointment of successor Officers, if any (the "Initial Terms"). Upon the expiration of these Initial Terms, each Officer and committee chair position shall thereafter be filled by election or appointment for a term of one (1) year, or until a respective successor therefore shall be chosen at an Annual Meeting of the Board of Directors.

Section 3 — The Chair of the Board. The Chair of the Board shall be the senior Officer in charge of all executive and operational matters. He/she shall preside at all meetings of the Members of the Corporation and at all meetings of the Board of Directors, and shall exercise general supervision over the affairs of the Corporation and perform such other functions as the Board of Directors may from time-to-time direct. He/she shall be an ex officio member of all Board committees. The Chair shall be the Chief Executive Officer of the Corporation.

Section 4 – The Vice-Chair of the Board. Second in authority only to the Chair of the Board, the Vice-Chair shall be a senior Officer of the Corporation, involved in executive and operational matters. In the absence of the Chair, the Vice-Chair shall perform all of the functions of the Chair of the Board and such other functions as the Board may from time-to-time direct. He/she shall be an ex officio member of all Board committees.

Section 5 – The Treasurer. The Treasurer shall have charge of all the funds of the Corporation. He/she shall: (i) send out all notices concerning contributions, charges, fees, and/or moneys due and/or otherwise payable; (ii) collect the same; (iii) deposit all moneys received by him/her from any source in such bank or trust company as may be designated by the Board of Directors; and (iv) keep full and accurate accounts thereof and of all other financial matters of the Corporation. He/she shall render a full report whenever required by the Board of Directors. His/her books and accounts shall at all times be open to the Board of Directors, and to such persons as the Board of Directors may designate to inspect the same.

The funds in the hands of the Treasurer shall not be disbursed except upon the written order of the Treasurer, and/or of such other Officer or agent as the Board of Directors may from time-to-time designate.

The Treasurer shall perform such other and further duties as may from time-to-time be delegated to him/her by the Chair of the Board or the Vice-Chair.

Section 6 – The Secretary. The Secretary shall have the general supervision of the Secretary's office, and shall perform such other and further duties as may from time-to-time be delegated to him/her by the Chair of the Board, the Vice-Chair, or the President.

Section 7 – Additional Officers. There may be one or more Assistant Secretaries and one or more Assistant Treasurers, and such other Officers with such designations as the Board of Directors may from time-to-time determine and select.

Section 10 – Honorary Officers. The Board of Directors may from time-to-time appoint as Honorary Officers, with such titles and designations as it shall select, such persons as the Board of Directors shall determine, whether or not they be Members of the Corporation or members of the Board of Directors.

Section 11 – Vacancies. Whenever any vacancy shall occur in any office of the Corporation, by reason of death, resignation, incapacity or otherwise, the vacancy may be filled by the Board of Directors.

Section 12 – Duties of Officers. Officers shall discharge the duties of their positions in good faith and with that degree of diligence, care and skill which ordinarily prudent persons would exercise under similar circumstance in like positions.

In discharging their duties, Officers, when acting in good faith, may rely upon the financial statements of the Corporation represented to them to be correct by the Chair of the Board, the Vice-Chair, or the Officer of the Corporation having charge of its books of accounts, or stated in a written report by an independent public accountant or firm fairly to reflect the financial condition of the Corporation.

Section 13 – Bond. The Board of Directors may require any Officer, agent or employee of the Corporation to give a bond to the Corporation, conditional upon the faithful performance of his/her duties, with one or more sureties and in such amount as may be satisfactory to the Board of Directors.

Section 14 – Chief Executive Officer. (a) The Chief Executive Officer will be appointed by the Board of Directors, and will be the chief executive officer of the Corporation.

(b) The Chief Executive Officer will have general supervision over the administration of the business and affairs of the Corporation, subject to the direction of the Board of Directors. Whenever possible, the Chief Executive Officer will attend each meeting of the Board of Directors, and will submit such recommendations and information to the Board of Directors as the Chief Executive Officer may consider proper concerning the business, affairs and policies of the Corporation.

(c) The Chief Executive Officer will be charged with the management of all projects of the Corporation.

(d) The Chief Executive Officer will also serve as the Contracting Officer (as such term is defined in the PAAA) of the Corporation, and, as such, be responsible for (1) the disposition of property of the Corporation, and (2) the Corporation's compliance with the Corporation's property use and disposition guidelines.

(e) Every annual financial report of the Corporation must be certified in writing by the Chief Executive Officer that based on the Chief Executive Officer's knowledge (1) the information provided therein is accurate, correct and does not contain any untrue statement of material fact; (2) does not omit any material fact which, if omitted, would cause the financial statements to be misleading in light of the circumstances under which such statements are made; and (3) fairly presents in all material respects the financial condition and results of operations of the Corporation as of, and for, the periods presented in the financial statements.

Section 15 – Chief Financial Officer. (a) The Chief Financial Officer will have the care and custody of all funds of the Corporation and will deposit the same in the name of the

Corporation in such bank or banks as the Board of Directors may select or, if the Board of Directors has not so selected a bank or banks, which the Chief Financial Officer selects.

(b) The Chief Financial Officer will keep regular books of accounts showing receipts and expenditures, and will render to the Audit Committee at each regular meeting thereof an account of such transactions and also of the financial condition of the Corporation.

(c) The Chief Financial Officer will give such bond for the faithful performance of his duties as the Corporation may determine.

(d) Every annual financial report of the Corporation must be certified in writing by the Chief Financial Officer that based on the Chief Financial Officer's knowledge (1) the information provided therein is accurate, correct and does not contain any untrue statement of material fact; (2) does not omit any material fact which, if omitted, would cause the financial statements to be misleading in light of the circumstances under which such statements are made; and (3) fairly presents in all material respects the financial condition and results of operations of the Corporation as of, and for, the periods presented in the financial statements.

Section 16 -- Additional Personnel. The Corporation may from time to time employ such personnel as it deems necessary to exercise its power, duties and functions as prescribed by the New York State Not-for-Profit Corporation Law and all other laws of the State of New York applicable thereto. The selection and compensation of all personnel including the Chief Executive Officer will be determined by the Corporation subject to the laws of the State of New York. The Corporation may from time to time employ such personnel as it deems necessary to exercise its statutory powers, duties and functions. The selection and compensation of all personnel will be determined by the Corporation.



Section 17 – Financial Disclosure. Officers and employees of the Corporation will file annual financial disclosure statements with the Town of North Hempstead Board of Ethics.

Section 18 – Committees. The Board of Directors may establish such committees as are necessary and appropriate to carry out the business of the Corporation. The duties, responsibilities, authority and composition of all standing and AD HOC Committees shall be stated in writing and adopted by resolution of the Board of Directors.

(a) Governance Committee: The Board of Directors will appoint a Governance Committee, to be comprised of Independent Directors. The Governance Committee will: (1) keep the Board of Directors informed of current best governance practices; (2) review corporate governance trends; (3) update the Corporation's corporate governance principles; and (4) advise the Board of Directors on the skills and experiences required of potential Directors of the Board of Directors.

(b) Audit Committee: (i) The Board of Directors will appoint an Audit Committee, to be comprised of Independent Directors.

(ii) To the extent practicable, Directors of the Audit Committee should be familiar with corporate financial and accounting practices.

(iii) The Audit Committee will ensure that the Corporation arranges for the timely preparation and appropriate filing of the annual budget, the annual financial statements, the annual financial reports and the annual financial audit required under the laws of New York State.

(iv) The Audit Committee will recommend to the Board of Directors the hiring of a certified independent public accounting firm for the Corporation, establish the compensation

to be paid to the accounting firm, and provide direct oversight of the performance of the independent audit performed by the accounting firm hired for such purpose. The Audit Committee will not recommend the hiring of a certified independent public accounting firm to provide audit services to the Corporation if the Chief Executive Officer, comptroller, Chief Financial Officer, chief accounting officer, or any other person serving in an equivalent position for the Corporation was employed by that certified independent public accounting firm and participated in any capacity in the audit of the Corporation during the one year period preceding the date of the initiation of the audit.

(v) If the lead (or coordinating) audit partner (having primary responsibility for the audit) of the certified independent public accounting firm proposing to provide an annual independent audit for the Corporation, or the audit partner responsible for reviewing the audit, has performed audit services for the Corporation in each of the five previous fiscal years of the Corporation, the Audit Committee will prohibit such certified independent public accounting firm from providing an annual independent audit for the Corporation.

(vi) The Audit Committee will require that each certified independent public accounting firm that performs for the Corporation an audit required by law will timely report to the Audit Committee: (1) all critical accounting policies and practices to be used; (2) all alternative treatments of financial information within generally accepted accounting principles that have been discussed with management officials of the Corporation, ramifications of the use of such alternative disclosures and treatments, and the treatment preferred by the certified independent public accounting firm; and (3) other material written communications between the certified independent public accounting firm and the management of the Corporation, such as the

management letter along with management's response or plan of corrective action, material corrections identified or schedule of unadjusted differences, where applicable.

(vii) The Audit Committee will prohibit the certified independent public accounting firm providing an annual independent audit for the Corporation from performing any non-audit services to the Corporation contemporaneously with the audit, unless receiving previous written approval by the Audit Committee, including: (1) bookkeeping or other services related to the accounting records or financial statements of the Corporation; (2) financial information systems design and implementation; (3) appraisal or valuation services, fairness opinions, or contribution-in-kind reports; (4) actuarial services; (5) internal audit outsourcing services; (6) management functions, (7) broker or dealer, investment advisor, or investment banking services; and (8) legal services and expert services unrelated to the audit.

(c) Appointment. (i) The Chairperson of all committees shall be appointed by the Board of Directors in consultation with the Executive Director. Committee Chairpersons shall be selected from among the Board members. The Executive Director shall be an ex-officio member of the Board and of all its other committees.

(ii) Members. Committee members shall be appointed by the Board of Directors in consultation with the Executive Director. Such Committee shall have [seven (7)] members who are not members of the Board of Directors. The Board of Directors shall determine the composition of such Committee's members with the primary objective of creating a membership which grant money providers. Committee members of all other Committees shall be appointed by the Board of Directors in consultation with the Executive Director. Committee members may or may not be members of the Board of Directors.

(d) Reports. Each committee shall submit activity reports to the Board of Directors as prescribed in its commission.

(e) Term Of Office. Each member of a committee shall continue as such until the next annual meeting or until his successor is appointed, unless the committee shall be sooner terminated, or unless a member shall resign, be removed or cease to qualify as a member thereof.

(f) Vacancies. Vacancies in the membership of any committee may be filled by appointment made in the same manner as provided in the case of the original appointment.

## ARTICLE VII

### FINANCES

Section 1 – Finances. The funds of the Corporation shall be deposited in its name with such bank or banks, trust company or trust companies, as the Board of Directors may from time-to-time designate. All checks, notes, drafts and other negotiable instruments of the Corporation shall be signed by the Chief Financial Officer or by such Officer or Officers, agent or agents, employee or employees as the Board of Directors from time-to-time, by resolution, may designate. No Officer, agents or employees of the Corporation, alone or with others, shall have power to make any checks, notes, drafts or other negotiable instruments in the name of the Corporation, except as herein provided.

Section 2 – Accounting Period. The Corporation's Accounting period shall be from January 1<sup>st</sup> through the succeeding December 31<sup>st</sup>.

Section 3 – Books and Records. Upon request by the Town Supervisor or by the Town Board of the Town of North Hempstead, the Corporation will make available any and all books and records of the Corporation for inspection by the Town Supervisor or the Town Board, and submit to the Town Supervisor and the Town Board an annual financial report together with a report of the operations and accomplishments of the Corporation for such annual period. The

governing body of the Town of North Hempstead, the New York State Authority Budget Office and the New York State Comptroller will have the right to conduct an annual audit of the books and records of the Corporation.

## ARTICLE VIII

### DISSOLUTION

Section 1 – Distribution of Corporate Assets. In the event of dissolution, all of the remaining funds, assets and property of the Corporation shall, after payment of all debts and liabilities of the Corporation of whatsoever kind and nature, be paid and/or distributed to Town of North Hempstead, subject to an order of a Justice of the Supreme Court of the State of New York pursuant to Section 1008 of the New York Not-For-Profit Corporation Law.

Section 2 – Dissolution Upon Repayment of Mortgage Loan. If the Corporation accepts a mortgage loan or loans from the New York Job Development Authority, the Corporation shall be dissolved in accordance with the provisions of section 1411(g) of the New York Not-for-Profit Corporation Law upon the repayment or other discharge in full by the Corporation of all such loans.

Section 3 – Dissolution, Merger or Consolidation. The Corporation will not, without the affirmative vote of at least two-thirds of the members of the Board of Directors of the Corporation and of at least two-thirds of the members of the Town Board of the Town of North Hempstead, (i) dissolve or liquidate, in whole or in part, or institute proceedings to be adjudicated bankrupt or insolvent, (ii) consent to the institution of bankruptcy or insolvency proceedings against it, (iii) file a petition seeking or consent to reorganization or relief under any applicable federal or state law relating to bankruptcy or insolvency, (iv) consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Corporation or a substantial part of its property, (v) make a general assignment for the benefit

of creditors, (vi) admit in writing its inability to pay its debts generally as they become due or (vii) take any corporate action in furtherance of the actions set forth in clauses (i) through (vi) of this paragraph.

The Corporation will not, without the affirmative vote of at least two-thirds of the members of the Board of Directors of the Corporation and of at least two-thirds of the members of the Town Board of the Town of North Hempstead, merge or consolidate with any other corporation, company or entity, or sell all or substantially all of its assets or acquire all or substantially all of the assets or capital stock or other ownership interest of any other corporation, company or entity.

## ARTICLE IX

### MISCELLANEOUS

Section 1 – Agreements. Agreements executed for or on behalf of the Corporation shall be signed by the Chair, the Vice-Chair, or by such other Officer or Officers, person or persons, as the Board of Directors may from time-to-time designate; provided, however, that agreements entered into in the ordinary course of the Corporation's business may be executed for and on behalf of the Corporation by any one of the Chair or Vice-Chair.

Section 2 – Indemnification of Directors and Officers. The Corporation shall, to the fullest extent permitted by Sections 721 and 722 of the Not-for-Profit Corporation Law of the State of New York, indemnify any person made or threatened to be made a party to any action or proceeding by or in the right of the Corporation to procure a judgment in its favor, or for any other action, whether civil or criminal, including an action by or in the right of any other corporation of any type or kind, domestic or foreign, or any limited liability company or partnership, joint venture, trust, employee benefit plan or other enterprise, by reason that he/she, his/her testator or intestate is or was a Director or Officer of the Corporation or a

Director/director or officer of the other corporation or served in any other capacity at the request of the Corporation, against judgments, fines, amounts paid in settlement and reasonable expenses, including attorneys' fees actually or necessarily incurred as result of such action or proceeding, or any appeal therein, if such person acted in good faith, for a purpose for which he/she reasonably believed to be in, or, in the case of service for any other corporation or any limited liability company or partnership, joint venture, trust, employee benefit plan or other enterprise, not opposed to, the best interests of the Corporation and, in criminal actions or proceedings so long as the individual had no reasonable cause to believe that his/her conduct was unlawful.

Section 3 -- Insurance for Indemnification of Directors and Officers. The Corporation shall have the power to purchase and maintain insurance:

- (a) To indemnify the Corporation for any obligation which it incurs as a result of the indemnification of Directors and Officers;
- (b) To indemnify Directors and Officers for the cost of defense in instances in which they may be indemnified by the Corporation under the By-Laws; and
- (c) To indemnify Directors and Officers in instances in which they may not otherwise be indemnified by the Corporation under these By-Laws, provided that the contract of insurance covering the Directors and Officers provides, in a manner acceptable to the Superintendent of Insurance for the State of New York, for a retention amount and for co-insurance.

Section 4 -- Seal. The seal of the Corporation shall be circular in form and shall have inscribed thereon the words "The Town of North Hempstead Business and Tourism Development Corporation" in the outer circle, and the words "Corporate Seal -- Town of North

Hempstead, County of Nassau, New York, 2005" in the inner circle. The seal on any corporate obligation for the payment of money may be by facsimile, electronic inscription, engraved or printed.

## **ARTICLE X**

### **AMENDMENT OF BY-LAWS**

These By-Laws may be altered, amended or added to by (a) a majority vote of the Members of the Corporation present at any meeting at which a quorum is present, or by a majority vote of the Board of Directors present at any meeting at which a quorum of Directors is present, provided that written or electronic notice of the proposed alteration, amendment or addition shall have been included in the notice of the meeting; and (b) by a vote of least two-thirds ( $\frac{2}{3}$ ) of the members of the Town Board of the Town of North Hempstead.